DOCUMENT RESUME

ED 135 034 CS 501 618

AUTHOR Busby, Linda J.
TITLE Giants That Occasionally Roar: Broadcast Regulatory Policy in the United States.
PUB DATE 76
NOTE 56p.; Paper presented at the Annual Meeting of the Speech Communication Association (62nd, San Francisco, California, December 27-30, 1976)

EDRS PRICE MF-$0.83 HC-$3.50 Plus Postage.
DESCRIPTORS *Broadcast Industry; *Broadcast Television; *Commercial Television; Federal Government; Mass Media; *Programing (Broadcast); Publicize; *Social Factors; Social Influences; *Social Responsibility; Television Commercials
IDENTIFIERS FCC; *Federal Communications Commission

ABSTRACT

In this document, broadcast regulatory issues since 1940 are outlined and discussed in relation to social forces. The 1940s saw open warfare between the Federal Communications Commission (FCC) and broadcasters, as a result of the FCC expanding its powers. In 1946, the FCC issued its "Public Service Responsibility of Broadcast Licensees," which became known as "The Blue Book." During the 1950s, the FCC investigated broadcast performers and station owners for alleged communist activities and affiliations. Also in the fifties, concern developed over the relationship of television and juvenile delinquency and the control of advertising in the broadcast media. In 1961, with the appointment of Newton Minow as chair of the FCC, the Kennedy administration made clear its concern about the quality of television programming, and social scientists followed in an attempt to quantify and qualify the effects of television programming. By 1970, the theory of social responsibility of broadcasters had been thoroughly established by FCC Commissioner Nicholas Johnson, and under his direction the mass media concentrated on serving public interests. (LL)

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GIANTS THAT OCCASIONALLY ROAR:
BROADCAST REGULATORY POLICY IN THE UNITED STATES

by

Linda J. Busby

Assistant Professor

Telecommunicative Arts
Iowa State University
Ames, Iowa

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Paper presented at the national convention
of the Speech Communication Association,
San Francisco, California, December 27-30, 1976

CS 501618

"It'll probably go on forever; tug-of-war between those who want to harness it [broadcasting] and those who want to give it full rein."

Broadcasting, November 2, 1970

GIANTS THAT OCCASIONALLY ROAR: BROADCAST REGULATORY POLICY IN THE UNITED STATES

It is difficult to take an overview of broadcast regulatory policy because that policy doesn't emanate from one source, but rather, from a multiplicity of diverse sources. Even an incomplete list of organizations and individuals affecting (directly and indirectly) broadcast regulatory policy would include--the FCC, the White House, the courts, Congress, pressure groups, the FTC, the Office of Telecommunicative Policy, and the general public. Broadcast regulatory policy issues are also diverse and they fall into such categories as: technical regulations; political broadcasts regulations, licensing regulations; programming regulations, and a wide variety of others.

In this effort to take an overview of broadcast regulatory policy, a content analysis was made of regulatory issues covered in Broadcasting magazine during the years 1946, 1955, 1956, 1965, and 1976. Also, other broadcast-related publications were examined to gain an historical perspective on broadcast regulatory policy; among these publications were the Communications Bar Journal, Journalism Quarterly, Access and Media Report to Women. Field interviews were also made with three middle-market

commercial television station managers to determine managerial views of broadcast regulatory policy both in terms of current issues and in terms of changes in broadcast policies. An effort will be made to examine broadcast regulations by decades and to integrate the regulatory issues with social forces.

1940s

The general feeling toward broadcast regulations during this decade can be characterized in an article from Broadcasting, January 28, 1946.

> These columns have sagged beneath the weight of protest against the chipping away at radio's freedom. For 15 years this has gone on--since the first issue of this publication. Betimes we have been accused of calamity-howling, of protesting too much.
>
> The answer is evident in what has happened. Regulatory measures never dreamed of have been invoked by the Federal Radio Commission and its successor FCC. The thought implicit in the Radio Act of 1927, and carried over into the Communications Act of 1934, that the FCC is restricted to regulation of the physical aspects of broadcasting, is almost as extinct as the dodo. 1

This quote seems to summarize the fiction that broadcasters preferred to maintain during the 1940s. Inspite of the broad-ranging powers for the FCC implicit in the Communications Act of 1934, broadcasters preferred to believe that the FCC was created only to control technical problems that broadcasters might encounter. That theory should have already been proven faulty by 1946, since the FCC had made clear its intention to become involved in nearly every aspect of broadcasting.

On February 15, 1940, for example, the FCC indicated that it would involve itself in programming policy when it referred a complaint on the

give-away program "Pot O' Gold" to the Department of Justice for possible action under the antilottery laws. On January 20, 1941, the FCC again expanded its peripheries into programming with its now famous Mayflower Case, which held that broadcasters could not editoralize.[2] And, because of the war efforts, in December, 1941, President Roosevelt appointed Byron Price, the executive news editor of the Associated Press, as director of a new censorship bureau.

Both station and network owners felt under siege as the FCC crackdowned on multiple station owners and made major steps in controlling network influences on broadcasting. In 1941, the FCC ordered hearings on newspaper ownership of radio stations and, in that same year, it called for major reorganization of the radio network operations which would ban option time, exclusive affiliations, ownership of more than one station in a market of operation, and of more than one network by the same interests. The FCC also banned multiple ownership of stations in the same market area.

There was no question about it, there was open warfare between the FCC and the broadcasters. The National Association of Broadcasters Convention of 1941 was one of the stormiest in the history of broadcasting and it established some of the areas for battle. The delegates voted a fight-to-the-finish against the FCC monopoly rules, backed a Senate investigation of the FCC and called for legislation to aid broadcasters.

James L. Fly, who chaired the FCC from September 1, 1939 to November 13, 1944, made it known that he was a stout-hearted general who intended to lead the battle on the front lines. During the convention he said that

the NAB reminded him of a mackerel in the moonlight: "It both shines and stinks." He is remembered by most observers of broadcasting as the toughest man ever to chair the FCC. With this tough leader at the helm and with the FCC testing its powers, the 1940s were destined to be one of the most vitriolic eras in broadcast history.

In addition to the above plagues, the FCC had the audacity in 1940 to issue a 42-page license application which broadcasters claimed required so much information that they feared it would be virtually impossible to fill out. With these new encroachments by the FCC, and with tempers hot, politicians were sure to get into the scuffles. In 1940 the Republican convention became the first political party ever to adopt a radio plank into its platform--it called for upholding the application of constitutional principles of free press and free speech to radio. And, not to be upstaged, the Democrats adopted a similar platform plank at its convention one month later.

Several specific issues caused much furor in 1946 and among those was the "Blue Book." On March 11, the FCC issued its "Public Service Responsibility of Broadcast Licensees," soon nicknamed "The Blue Book" which listed the carrying of sustaining programs, local live programs and programs devoted to discussion or public issues, along with the elimination of advertising excesses, as factors to which the FCC would give "particular consideration" when asked to renew a station license. The NAB immediately declared that basic freedoms of radio were at stake and broadcasters joined the bandwagon. Broadcasting carried one article of protest with the

unusual headline, "F(ederal) C(ensorship) C(ommission)." It stated:

> Radio censorship is here. How long it is going to remain, and what far reaching effects it might have on the social and political life of this nation depends in great measure upon American broadcasters, the press, the pulpit, motion pictures. . . .
>
> The report is said by the Commission to be an effort only to force broadcasters to perform in programming as they promise when they apply for facilities. Even that would be an unwarranted arrogation. But it is more than that . . . .
>
> There is more at stake than the ultimate pattern of American broadcasting. There is at stake the pattern of American life, and you can find the truth in the charred ruins of a chancellory in Berlin. 3

The station owners really believed that the FCC had overstepped its bounds and that the status of free radio was challenged. The broadcasters felt beleaguered not only by the enactment of the "Blue Book" as part of regulatory policy, but they were also disrupted in their operations by labor disputes. The bitterest dispute was between the broadcast industry and the music industry.

James C. Petrillo, President of the American Federation of Musicians (AFM), launched a massive campaign to prohibit the use of sound recordings by radio stations. Petrillo fought to force the broadcasters to use only live musicians performing for each program. The networks also struggled with ASCAP and BMI for rights to use music; many of these issues were settled in the courts. In addition to these problems with music and musicians, the broadcasters fought with AFRA (American Federation of Radio Artists) and with IBEW, the broadcast engineers. These battles caused one NAB official to observe that: "Industrial strife has the potential power to destroy the American way of life unless the nation formulates a positive labor policy."[4]

The turbulent 1940s were not unlike other decades in some regards. A content analysis of regulatory issues in Broadcasting indicated that broadcasters were concerned about licensing, technical issues, self regulations and advertising. These issues had been of interest to broadcaters in the past two decades and would be important to all future commercial broadcasters. In the six issues of Broadcasting examined for 1946, there were 113 total articles that dealt with broadcast regulations. As in every decade, articles dealing with licensing were the most numerous, but not necessarily the most significant because many of these articles were short and merely documented the change of a license ownership. Complete findings from 1946 are in Table 1. Examples of headlines from 1946 are in the Appendix.

In reviewing some of the regulatory issues in the 1940s, readers might be surprised to find some seemingly recent issues. One article titled "Drug Makers Warned to Watch Quality of Their Advertising," makes it clear that governmental agencies were concerned about truth-in-advertising in 1946 just as they are concerned about this in 1976. Also, the commissioners were concerned about diversification of station ownership, an issue which we tend to think of as contemporary. Several headlines read: "FCC to Probe Multiple Video Holdings"; "FCC Orders Hearings to Investigate Newspaper Operations of Applicant"; "Durr Differs Sharply on FCC Approval of Sale of Only Station to Only Paper."

When FCC Chairman, Fly, stepped down in 1944, the battles became a little less intense. One NAB official called for more self-regulations

TABLE 1

BROADCAST REGULATORY ISSUES, 1946

Broadcasting Magazine, 1946	ISSUES
January 28 March 18 May 20 July 1 October 28 December 9	1. Licensing 51 2. Protests Against Regulations 13 3. Technical 12 4. FCC functions 9 5. Broadcasters and Unions 9 6. Courts and Broadcasters 6 7. Political Telecasts 2 8. Advertising 2 9. Congress and Broadcasters 2 10. Self-Regulations 2 11. Programming 1 12. FM 1 13. Program Ownership Rights 1 14. Government Agencies and Broadcasting 1 15. State of the Industry 1
These 6 issues of *Broadcasting* contained 113 total articles on regulatory issues. There was an average of 19* articles per issue.	

*This number is rounded up from 18.8.

that would go even further than the government regulations. William Paley, CBS owner, agreed with this and encouraged the industry to regulate itself in an effort to keep government regulations from becoming an unmanageable giant. In 1946, one issue of Broadcasting observed that broadcasters were a little less afraid of the FCC than they had been in earlier years because "with 322 applicants pending for renewal at the time of the 'Blue Book's' publication, only seven [had] been set down for hearing." By 1947, the broadcasting industry and the FCC had reached such amenable relations that in October of that year, Charles Denny, Chairman of the FCC, resigned his government position to join NBC as Vice President and General Manager.

With the war drawing to a close, everyone wanted to get into the act and start a radio or television station. One article in 1946 had a headline which was indicative of the FCC's plight: "FCC almost Keeps Up With Applications." On September 30, 1948, the FCC imposed a "freeze" on all new pending TV application to give the commission a chance to review allocation plans. This television licensing freeze lasted until April, 1952, and when the freeze was finally lifted, the nation was into a new broadcast era. The growth of television and the fear of communists in our midst were to become important aspects of the 1950s.

IMPORTANT REGULATORY ISSUES OF THE 1940S

March 25, 1940: "The Sanders Brothers Case" 309 U.S. 470 (From 1940 to 1958 the FCC interpreted this Supreme Court decision to mean that economic injury was no basis for refusing to license a potential competitor."*)

January 16, 1941: "The Mayflower Decision" 8 FCC 333, 338 (Cautioned broadcasters about editorializing)

May 10, 1943: "The Network Case" The National Broadcasting Co., Inc. et al. v United States et al. 319, U.S. 190 (In this case the Supreme Court upheld the FCC's right to regulate business relationships between networks and stations. As a result of this case ABC network was formed when NBC was forced to sell one of its networks.)

June 26, 1945: "The WHKC Case" 10 FCC 515 (A forerunner of the Fairness Doctrine)

March 7, 1946: "Public Service Responsibility of Broadcast Licensees" or "The Blue Book"

July 19, 1946: "The Scott Case" 11 FCC 372 1246 (A forerunner of the Fairness Doctrine)

September 30, 1948 to July 1, 1952: "The Freeze" 16 Fed. Reg. 3072, 3079 (Suspended the allocation of all television licenses)

June 1, 1949: "The Fairness Doctrine" 13 FCC 1246 (Cautioned broadcasters concerning the coverage of all sides of controversial issues)

*See Frank J. Kahn, Documents of American Broadcasting (New York: Appleton-Century-Crofts, 1968), p. 481.

1950s

The 1950s brought into being a new emphasis in regulatory policy. With the Freeze lifted, the broadcasters were concerned about developing the industry; in the 1950s many articles in Broadcasting dealt with advertising sales and with creating and producing commercial messages. Broadcast regulations clearly follow the social concerns of the particular decade and this tendency can be seen in the 1950s. While the nation was concerned with ridding the government of suspected communists, broadcasters, the FCC and Congress were concerned about ridding the industry of "fellow travelers." Broadcast performers were blacklisted and broadcast station owners were investigated. One article in Broadcasting reported:

> A former Communist and FBI informer . . . who has repudiated the testimony he gave which helped convict 13 communist leaders, said in U. S. District Court in N. Y. that he had worked up blacklists a few years ago for two advertising agencies.
>
> Mr. Matusow said that many of the persons on this list whom he labeled as "Reds" were not known to him. 5

Edward Lamb, who owned station WICU-TV in Erie, Pennsylvania, was tried for his alleged Communist activities and his station license was jeopardized on the basis of the testimony of two witnesses who later claimed that they were coached to give false testimony by the Broadcast Bureau Council. Lamb was accused of being a Communist because of a book that he wrote in 1934 titled, The Planned Economy in Soviet Russia and, because of an article that he allegedly wrote for "The Worker," a Communist newspaper. Lamb denied any Communist affiliations and claimed that he

never wrote an article for "The Worker." Finally, after a three year fight, which ended June 17, 1957, Edward Lamb was cleared of Communist connections and his license for WICU was renewed.

In another case, a program director at a New Orleans station was fired immediately when he refused to testify before a Senate subcommittee on the grounds that the senators had no right to probe into his political and personal beliefs.[6] In this decade of the communist witch hunts, the public became familiar with such blacklisting organizations as AWARE and with the names of individuals accused of communist leanings.

In the midst of these serious hearings and accusations, there were a few light moments in broadcast regulations. One came in 1955 when a broadcast promoter advertised for sale a plant called a "Blue Rose" which was described as "a year-round flora that would make a paradise of most any yard." The "Blue Rose" was really a Texas weed and had none of the wonderful characteristics that the seller ascribed to it. This promotion campaign for the "Blue Rose" might have a touch of humor for us looking at the past, but it wasn't a laughing matter for the promoter who got eight years in jail for fraud. The government agencies once again made clear their intentions of controlling advertising in the broadcast media. If this case didn't make the issue clear, several articles in Broadcasting did: "New York Grand Jury Probe of 'Bait-Switch' Ads Underway" and "Fraudulent TV Advertising Charged to L. A. Car Dealer."

Other interesting regulatory events in the 1950s included the concern about television and the increasing rate of juvenile delinquency.

Witnesses appearing before a Senate Juvenile Delinquency Subcommittee called for a probe to determine if TV was a factor in delinquency. The subcommittee headed by Senator Estes Kefauver recommended that the FCC establish program censorship, that all broadcasters join NARTB and that all TV film producers be urged to subscribe to the TV code. These hearings were early indications of the concern in government, in the general society and in the industry about the social impact of broadcasting and, these hearings were forerunners of the mountains of research that would eventually be completed by social scientists on the effects of television on behavior.

Some interesting technical issues were also considered during the 1950s. One issue was called deintermixture; this was a proposal which would make a community all UHF or all VHF and prohibit the mixture of the two in a particular locality. In 1955 the FCC asked for comments on making Hartford, Connecticut, Peoria, Illinois and Evansville, Indiana all UHF areas. Fortunately, also in that same year, the FCC decided to deny all the deintermixture proposals pending a full reconsideration of the entire television allocations plan.

The war that had started in the 1940s between broadcasters and the government had died down, but there were still skirmishes. One such ambush came in 1955 when the Senate Commerce Committee issued a report by its counsel, Harry Plotkin, which called for radical network restrictions and the reduction of multiple ownerships. CBS's Richard Salant echoed a warning that had been heard before and that would be heard many times

again: "adoption of the Plotkin proposal that network option time be abolished might mean the death of television networking."[7]

The 1950s introduced some new broadcast programming concepts including some new documentary news formats. A group of well trained reporters had returned from the war front and were eager to test their expertise on the new medium. Other program formats, including quiz and comedy programs, drew large audiences. By 1956 survey research revealed that people devoted more time to the new medium of television than to newspapers. But, the 1950s were not just years of growth and development for television, they were also years in which the new medium was exposed as sometimes corrupt.

The Legislative Oversight Subcommittee of the House Commerce Committee in its three-and-a-half-year history created many dramatic moments. One such moment came on November 2, 1959, when a young English professor at Columbia University testified before the committee that he had been "deeply involved in a [quiz show] deception." In fourteen appearances on NBC's program "Twenty One," he had won a total of $129,000 with the assistance of the program's producer who had given him the questions and sometimes the answers before his appearances. He was also coached in methods for creating suspense and tension in the viewing audience. The impact on the American public from the quiz scandles can be demonstrated in this comment on the fate of Mr. Van Doren:

> Mr. Van Doren's testimony was probably the single most dramatic moment in the three-and-a-half-year history of the Legislative

> Oversight Subcommittee . . . . In his appearances on "Twenty-One," Mr. Van Doren had become a national figure; on the strength of his demonstrated appeal, NBC had hired him as a $50,000-a-year regular on the Today show. And when he had completed his confession, Representative Oren Harris . . . helped charge the atmosphere further with an emotional: "God bless you." Mr. Van Doren and the big-money quizzes were done. 8

Other broadcasting irregularities were also exposed by the subcommittee. Evidence indicated that off-the-record efforts were made to influence the votes of the FCC commissioners in six cases where major television grants were at stake. FCC commissioner, Richard A. Mack, was forced to resign after the subcommittee produced checks paid to him by broadcast interests; one of the men involved in the scandles committed suicide and the former FCC commissioner died of alcoholism.

The Oversight Subcommittee also exposed "payola"; in 1958 and in 1959 record distributors had paid $263,244 in payola to have their records played and plugged. Trafficking in station licenses and other undesirable practices were examined in the bright light of a Capitol Hill committee room and the results of the scrutiny were greater powers for the FCC, including the right to force a license forfeiture and short-term license renewals. In addition, the subcommittee's findings concerning quiz show deceits and recording company payola practices caused the FCC to become more concerned with programming. In November of 1959--just after Mr. Van Doren's testimony--the commission announced a sweeping inquiry into broadcast programming and in 1960 the commission introduced its Programming Policy Statement, in which the commission listed fourteen program requirements that were necessary for licensees to discharge their public-interest obligations.

The 1950s had begun with high hopes for broadcasters--the war was over and the new medium of television was ready to be unleashed on the American public. But, the decade ended on a sour note; the new medium of television and even the governmental regulatory agencies which were designed to direct and control the industry were corruptable. At the close of the 1950s everyone knew that "If broadcasting had ever had an age of innocence, the age was gone."[9] A complete listing of regulatory issues discussed in Broadcasting for 1955 and 1956 are in Tables II and III.

TABLE II

BROADCAST REGULATORY ISSUES, 1955*

Broadcasting Magazine, 1955	ISSUES
January 31 February 21 March 28 April 4 June 13 October 3	1. Licensing 55 2. Technical 25 3. Programming 10 4. FCC Functions 9 5. Advertising 7 6. Communists 7 7. Antitrust 2 8. Campaign Issues 2 9. Government Agency Functions 2 10. Copyright 1 11. Special Interest Groups 1 12. Media Access 1 13. Toll Broadcasting 1 14. Fairness Doctrine 1 15. Libel 1 16. Self Regulations 1
These 6 issues of Broadcasting contained 126 total articles on regulatory issues. There was an average of 21 articles per issue.	

*For sample headlines dealing with these regulatory issues, see the Appendix.

TABLE III

BROADCAST REGULATORY ISSUES, 1956*

Broadcasting Magazine, 1956	ISSUES
January 30 March 26 April 30 June 4 June 25 November 5	1. Licensing 60 2. Technical 18 3. Antitrust 10 4. Political Telecasts 9 5. Programming 7 6. Communists 6 7. FCC Functions 4 8. Advertising 4 9. Toll TV 1 10. Libel 1 11. Government Agencies 1
These 6 issues of *Broadcasting* contained 121 total articles on regulatory issues. There was an average of 21 articles per issue.	

*For sample headlines dealing with these regulatory issues, see the Appendix.

IMPORTANT REGULATORY ISSUES OF THE 1950S

April 14, 1952: "Sixth Report and Order" 17 Federal Regulation 3905, 3908 (Ended the "freeze" and opened the UHF television spectrum.)

July 10, 1958: "The Carroll Case" Carroll Broadcasting Company v FCC 258 F 2d 440 (D.C. Cir) July 10, 1958 (The Court of Appeals rejected the FCC's interpretation of the 1940 Sanders Brothers Case and made it mandatory for the FCC to consider economic injury that might be brought about by a competitor, especially when the public interest might be adversely affected by the competitor.)

June 29, 1959: "Farmers Union v WDAY" Farmers Educational and Cooperative Union of America, North Dakota Division v WDAY, Inc. 360 U.S. 525 June 29, 1959 (The Supreme Court granted broadcast stations immunity from defamation suits based on remarks made by political candidates over the air.)

1960s

The 1960s were turbulent times in the American society as a whole, but not necessarily turbulent times for broadcasters. The 1960s did introduce some interesting regulatory issues, among these was a concern for programming quality and a new all-out effort by social scientists to quantify and qualify the effects of TV programming.

One of the major thrusts into programming as a regulatory issue came in 1961 when President Kennedy appointed Newton Minow as Chairman of the FCC and the Kennedy administration made clear its concern about the quality of television programming.[10] The emphasis on television content had been spurred by the House Subcommittee on Legislative Oversight which had been appointed in mid 1957 and in three-and-a-half years of operation, it had examined quiz show scandals, payola and ex-parte influence and, had been instrumental in the cancellation of six TV-station grants. On April 10, 1961, FCC Chairman, Newton Minow, told broadcasters that they would be judged on strict interpretations of the law and on how well they lived up to their programming promises. At that years' NAB national convention, Minow startled and angered broadcasters by calling television a "great waste land" and warned broadcasters that they had better improve the quality of their programs or get off the air. To back up its concern over program quality, the FCC instituted a new program-reporting form which required identification of every minute of programming during the broadcast day and on July 17, 1961, the FCC announced a new policy of matching proposals of applicants with their performance.

With this regulatory concern for programming quality, the social scientists were ready to get into the act. The social scientists had the research methodologies to relate television content with social behavior and this research area was fertile gound that could keep academics tilling for decades. In March of 1961, researchers discovered that viewers said that they wanted more cultural programs, but that viewers actually watched pure entertainment; June 12, 1961, researchers noted that TV crime and violence programs had increased in numbers and so had juvenile delinquency, and witnesses at a Senate hearing tried to prove a connection. In 1969, the National Commission on the Causes and Prevention of Violence issued one of its reports titled Mass Media and Violence, and the government was well into an era of concern about media content and social behavior.

In the early days of television, observers saw the new medium as a wonderful technological marvel that could raise the cultural level of the American public, could educate the public and could unite the public for a stronger America. After over a decade of television operations, television writers told the FCC that the promise of a golden age of television was at a dead end. The television network managers also became concerned about programming and they promised to cut down on violence, especially in programming directed toward children; for a short time, the three networks even united to produce "quality TV programs" for children that would be rotated among the networks at the same time each day, but this proposal was very short lived.[11] In 1962, the FCC made solid its intention to have quality programs when so-called "unusually good programming"

won the license renewal for fourteen Westinghouse stations dispite antitrust violations of the parent company.

Fraudulent advertising was another regulatory issuse in the 1960s as in previous decades. In 1962, the FTC called the Rapid Shave sandpaper commercial a "deliberate fraud" by the Colgate-Palmolive company and by the advertising agency.[12] And, in 1965, the Courts upheld the FTC complaint against General Motors, Libby-Owens-Ford for misrepresentation in commercials shot through an open door, purported to be shot through safety glass. Television was a medium that lent itself to a wide variety of visual trickeries, but these trickeries were supposed to be reserved for entertainment programs, not for advertisements. In that same year, the regulatory agencies made clear that payola wasn't legal and wasn't tax deductable!

In the early 1960s, the ramifications of the communist purge were still drawing to a close. In 1962, John Henry Faulk sued AWARE Inc. for one million dollars and charged that the AWARE bulletin labeled him as a Red sympathizer and ended his broadcast career. In July of that year, a jury awarded Faulk $3.5 million dollars in damages for libel.[13]

The 1960s were also the years when Americans became aware of this country's technical superiorities. In 1965, Early Bird, the first commercial communications satellite, went into stationary orbit and opened trans-Atlantic circuits for TV usage. We were into the international television age as Early Bird sent TV programs both ways across the Atlantic. Also, CATV came into its own as a new technical marvel that could provide

Americans with multiple channels for just about everything from shopping guides to the importation of distant signals. The commercial broadcasters became particularly interested in the intrusion of cable when in 1961 a Federal court told a Salt Lake City station that it couldn't stop an Idaho CATV operator from picking up the station's programs. Commercial broadcasters saw CATV as a thief in the daylight who would openly steal both programs and audiences. Some bitter conflicts erupted in the NAB conventions in the early 1960s between station owners and CATV owners. Some of the confusion and some of the concern was mitigated in 1965 when the FCC asserted its authority over all CATV and proposed to require CATV to carry local programs and to stop the importation of distant station signals. The FCC also put a freeze on all CATV microwave applications in major markets. But, the commercial owners were still concerned about what cable would mean for the future. The "wired nation" concept introduced by cable and the international communications concepts introduced by satellites were just part of the technological landmarks in the 1960s; America's space efforts also indicated to Americans that we were well into a great technological era. In 1965 one technological wonder was used to augment another when the Gemini 6 splashdown was covered live via the Early Bird satellite. The FCC was in a visegrip in its attempts to regulate some of these new communications systems. In the case of cable, for example, if the FCC didn't regulate cable, it was under fire from commercial broadcasters and if it did, it was under siege by the cable operators.

Another competitor to commercial broadcasting also was born in the 1960s--public broadcasting. In 1962, the Ford Foundation gave $8.5 million

dollars to educational broadcasting, and in 1965 ETV got a boost when the Carnegie Corporation formed a blue-ribbon commission to study ETV, its potentials, its reality and its future. In 1967, the Senate approved a bill to subsidize public broadcasting, and in that same year, the Senate passed the bill establishing the Corporation for Public Broadcasting. With CATV and public broadcasting creating new television outlets, the local TV audience was sure to be fragmented. Local television operators were concerned about their future in an age when the potential television audience might be divided ten or fifteen ways.

While media outlets were expanding, media utilization was curbed in at least one instance. On June 14, 1965, the Supreme Court ruled in a five-to-four decision that television cameras in the court prevented a fair trial in the Billie Sol Estes case. This decision would have long-range effects that are still being debated in the mid 1970s.

One other decision in 1965 would create the regulatory mood for the rest of the 1960s and 1970s--the decision in the WLBT case. The United Church of Christ had requested permission from the FCC to join a petition to deny the license of station WLBT-TV (Jackson, Mississippi) on the grounds that the station did not serve the interests of the Black community. Though the FCC originally denied the request from the United Church of Christ, the Court of Appeals ordered the FCC to allow the church group to enter the case as an interested third party. With this decision, the flood gates were opened for the intervention of hords of public interest groups in station license decisions. This case was one of the most important regulatory issues of the 1960s because this decision would have far-ranging

implications. "Representatives of the audience have a right to be heard," the court told the FCC in ordering rehearing of the renewal application. By 1967 the NAACP had taken the impetus from this case to ask the FCC to investigate possible bias in television programming; an NAACP study found that Blacks were shown in only five percent of commercials carried on TV sports programs and other studies found similar evidence.

Another case that supported the intervention of citizens in regulatory decision making came when in 1967, a young lawyer, John Banzhaf, asked for television time to counter the cigarette commercials. Banzhaf was awarded the time for anti-smoking messages on television, and in 1970 cigarette advertising was banned entirely from broadcast media. The power of the private citizen was manifested in the broadcast regulatory process as it had never been before. While a private citizen could not make regulatory policy, that citizen could definitely influence it.

The personalities of the FCC Commissioners will also, to some degree, influence the interpretation of the Communication Act and subsequent Congressional legislation. One example of this can be seen in the appointment of Nicholas Johnson to the FCC; Johnson was surely a man of his times--concerned about citizen interests, concerned about corporate influence in broadcasting, concerned about diversification of media ownership and concerned about quality programming. His broad-ranging public interests would encourage the participation of citizen groups in media monitoring and would set the tone for activist FCC policy until the mid 1970s.

In the 1960s a war was brought into the American homes via television and the entire nation was unsettled; some of the country's stoutest

institutions were challenged and were found wanting. By 1967, a television survey showed that 64% of American adults relied on TV as their major news sources, and the news that they were watching involved racial strife, unrest on college campuses and violent protests against the Viet Nam war. Interestingly, the content analysis of Broadcasting found little of this strife reflected in the broadcast industry. The mood was set for activist intervention in the late 1960s and this mood would dominate the broadcast industry in the early seventies. Table IV shows the broadcast regulatory issues that were explored in 1965.

TABLE IV

BROADCAST REGULATORY ISSUES, 1965*

84 total issues 14 issues per magazine	1. Licensing 34 2. CATV 12 3. Broadcasting & Courts 6 4. Advertising 5 5. Network Functions 5 6. Satellites 5 7. Programming 3 8. Technical 3 9. Fairness Doctrine 2 10. FCC Functions 2 11. Political Telecasts 2 12. UHF Concerns 2 13. Broadcasting & Congress 1 14. Antitrust 1 15. Libel 1
Broadcasting magazine, 1965 January 18 March 22 May 17 June 28 September 27 November 22	

*For sample headlines dealing with these regulatory issues, see the Appendix.

IMPORTANT REGULATORY ISSUES OF THE 1960S

July 29, 1960: "The 1960 Programming Policy Statement" FCC 60-970 (This document, issued fourteen years after the "Blue Book," is the programming policy to which the FCC currently adheres.)

August 24, 1960: "The Great Debates Law" Public Law 86-677, 86th Congress (This law allowed the suspension of Section 315 for the Kennedy-Nixon debates of 1960)

February 14, 1962: "The Cable Case" In Re Carter Mountain Transmission Corp. 32 FCC 459 (This was the FCC's first exercise of regulatory jurisdiction over CATV; the commission asserted that it could deny facilities to serve CATV if the public interest would best be served.)

March 29, 1962: "The Suburban Case" Patrick Henry et al., d/b as Suburban Broadcasting v. Federal Communications Commission 302 F 2d 191 (D.C. Cir.) (The Court of Appeals affirmed the FCC's right to apply the 1960 Programming Policy Statement when considering new station applications.)

July 25, 1962: "The Charlie Walker Case" 33 FCC 250, 255 (The FCC denied the renewal of the license for station WDKD radio because of certain "coarse, vulgar, and suggestive" language used over the air.)*

August 31, 1962: "The Communication Satellite Act of 1962" Public Law 624, 87th Congress, 2d Session (COMSAT, the Communications Satellite Corporation, was authorized by this act.)

January 22, 1964: "The Pacifica Case" 36 FCC 147 (" [This] case can be considered the FCC's affirmation of principles of free speech as applied to broadcasting.)**

June 7, 1965: "Fair Trial vs. Media Access" Estes v. Texas 381 U.S. 532 (In a 5-4 Supreme Court decision the court decided that proceedings in a courtroom were disrupted by television equipment and by reporters. This ruling also

*The case involved other issues, including misrepresentations to the FCC. For more complete details, see Frank J. Kahn, Documents of American Broadcasting (New York: Appleton-Century-Crofts, 1968), p. 228.

** Ibid., p. 282.

affected greatly the notion of pretrial publicity.)

June 2, 1967: "The Fairness Doctrine Applied to Cigarette Advertising" FCC 67-641 (This decision introduced a new area of concern for broadcasters; it marked the first application of "fairness" to advertising.)

November 7, 1967: "The Public Broadcasting Act of 1967" Public Law 90-129, 90th Congress (This law established the Corporation for Public Broadcasting and started the growth of PTV.)

1970s

The 1970s brought into existence the activist era that the 1960s promised. As early as 1956 researchers were describing social responsibility of broadcasters. In 1956 Theodore Peterson explained what he called a "new" theory of social responsibility:

> The theory has this major premise: Freedom carries concomitant obligations; and the press, which enjoys a privileged position under our government is obliged to be responsible to society for carrying out certain essential functions of mass communication in contemporary society.[15]

Twenty years later Frederick Whitney still labeled the theory of social responsibility as a "new" theory and explained:

> Essentially, the theory of social responsibility is an extension of libertarianism in that it seeks to protect free expression. Social responsibility places a burden on the mass media to adequately represent all hues of the social spectrum. It seeks to inject truth in advertising . . . which in the uncontrolled commercial world, has seriously eroded a part of media credibility. Social responsibility charges the mass media with the development of and enforcement of ethics in the public interest.[16]

The 1970s were to be the years when mass media would concentrate on serving public interests, primarily because public interest groups demanded a mass media sensitive to public needs. The legal precedent for citizen intervention in electronic media performance and operation was boosted in 1966 when (1) John Banzhaf III initiated his first attempt to bring cigarette commercials under the Fairness Doctrine by asking WCBS-TV, New York, to make free time available for anti-smoking commercials and (2) when a U.S. Court of Appeals allowed the United Church of Christ to intervene as an interested party in the license renewal hearing of Station WLBT-TV, Jackson, Mississippi.

Because of the efforts of Banzhaf, the FCC ruled that cigarette commercials were a "controversial issue of public importance" and as such required the carriage of anti-smoking material and in January, 1971, the President signed into law a bill that outlawed altogether the advertisement of cigarettes on election media. To the media observer, young lawyer Banzhaf became the little David who slew the media giants. Individuals concerned about media responsibility were encouraged. Then, in that same year, a public interest group was allowed to intervene in a licensing hearing; the United Church of Christ argued this WLBT had not served the needs of the Black community and the FCC finally agreed.

As a result of the two above cases, groups all over the country were now told formally that the electronic media were no longer theorizing social responsibility, but were now, to some extent, living social responsibility. With the resolution of these two cases in favor of social responsibility, groups across the country began organizing efforts to make broadcasters live up to the letter of their new social responsibility.

The theory of social responsibility for broadcasters was so thoroughly established that by 1970 FCC Commissioner Nicholas Johnson was personally instructing the public on techniques to ensure social responsibility of electronic media through his book How to Talk Back to Your Television Set. In 1975 former Commissioner Johnson went into full-time public advocacy when he became publisher of a weekly "journal of the citizen media reform movement."

Whitney sees this new social responsibility emerging from:[17]

a growing distrust of big business, of which mass media industries were a major part;

a growing philosophical skepticism that questioned the basic assumptions of the Age of Reason;

the infiltration of the media by people who sought to right perceived wrongs;

the infiltration of the media by elitists who reflected a growing trend in government and in many other areas.

There seems to be no factual proof that the media had been infiltrated by elitists or philosophical skeptics or people who sought to right perceived wrongs. The theory of social responsibility seems to have been promulgated by large numbers of Americans who believed that:

1. the mass media are major opinion-makers because they so heavily penetrate our society;

2. the media affect all Americans regardless of age, sex, creed, national origin or geographic location;

3. because of their social significance, the media should aid and serve admirable social goals and should be held accountable for their behavior in this regard.

An example of the speed of the social responsibility movement can be seen by examining some of the regulatory issues of 1970:[18]

Jan. 12 - Civil rights group charges all Atlanta radio-TV stations with discrimination against Blacks, asks FCC to defer license renewals until it investigates.

Jan. 19 - FCC says it will favor incumbent broadcaster over rival applicants if he can show programming "has been substantially attuned to the needs and interests" of his area.

Feb. 16 - "Frito Bandito" pulled off air after complaints of Mexican-American group, to be replaced by new ad campaign.

Apr. 6 Anti-pollution group complains to FCC that WNBC-TV New York failed to fulfill fairness doctrine when it refused to carry rebuttals to gasoline and automobile commercials.

April 13 - Minority voices ring loud, clear, sobering note at NAB convention, disturbing the usual self-congratulatory atmosphere of annual reunion.

May 25 - New FCC rules require broadcasters to adapt, report to commission, detailed equal-opportunity programs.

June 8 - FCC turns down request of equal time by anti-war groups.

June 29 - Campaign of Blacks to require broadcasters to change hiring, program practices moved to Nashville, Memphis.

July 13 - Blacks ask FCC to deny license renewals to WREC-TV, WHBC-TV, both Memphis.

July 20 - Blacks add WMC-AM/FM-TV to list of Memphis stations whose license renewals they want denied; others feel stations have been too pro-black.

Aug. 31 - Women's Lib boycotts Silva Thins, Ivory Liquid, Pristine, Cosmopolitan Magazine, calls advertising "offensive, and insulting to women."

Sept. 7 - Non-profit group gets custody of WLBT-TV, Jackson, Miss., until permanent licensee selected.

Sept. 7 - Blacks challenge renewals of eight Columbus, Ohio, stations.

Sept. 21 - Twenty-three research projects probing impact of televised violence on child behavior are in work, funded by HEW.

Sept. 28 - NAACP studies TV commercials, finds more Black faces but still not enough.

Oct. 5 - United Church of Christ, Black broadcasting coalition of Youngstown, Ohio, come to terms with WFMJ-AM/FM-TV, ask FCC to deny renewals to other Youngstown stations.

This look at the first nine months of 1970 indicates that the social responsibility movement was indeed well underway.

Because many Americans have become concerned about the omnipotence of the media and their potential effects, the cries for social responsibility have been heard in many corners. All of the media are affected to some extent by this concern for media's responsibility to society and its distinct groups. A survey of headlines in the press indicates the pervasive concern over media content, media structure and media functions:

"Jeannie Wilkins Files E.E.O.C. Charges Against University of Houston Station"

"Environmental Group Challenges Oil Company Advertisements"

"Los Angeles Women's Coalition Challenges License of Station KNXT-TV"

"Are Mass Media a Means of Communicating or a Means of Governing Others?"

"Justice Department Files Petition to Deny KMJ License Renewal"

"15 Editorial Women File Charges of Discrimination Against Owner of New Haven Register"

"WPIX Does Not Mirror Its Society"

"Lesbians Issue Guidelines for Media Coverage"

"Food Editor and Financial Writer Charge Discrimination at the St. Louis Post"

"California Moves Toward Non-Sexist Textbooks"

"We Are Demonstrating Against the Unreality of TV"

The legal challenges involving social responsibility at television stations have centered around three main issues: (1) the station does not properly represent the needs and interests of the local community (the ascertainment survey was faulty); (2) the station discriminates in employment, and/or (3) more programming of a particular type is needed.

Various women's groups have launched station license challenges on grounds that: (1) the stations fail to consult women or women's groups regarding women's programming; (2) the stations present a distorted image of women; (3) the stations discriminate in the employment of women. The license of WABC-TV was challenged by a local women's group; a similar license challenge was initiated by the Detroit NOW against station WXYZ-TV. Though none of these cases has yet been settled in favor of the women's groups, many agreements have been reached between the broadcaster and the group, and the broadcasters have been alerted to the belief of the women that the stations must be responsible to their needs.[19]

It should be noted here that what Nicholas Johnson labels "the reform broadcasting movement" can include any number of actions and issues: public broadcasting, cable, license renewals, ascertainment, agreements, EEO, Section 315, formats, public affairs, family viewing, children, advertising, consumer reporting, and many others.

The FCC in handling these cases initiated by public interest groups has tended to take each case as a unique set of circumstances and no trend can yet be plotted in their handling of the cases. A good example of how the FCC has maintained its prerogative to rule positively to some social responsibility cases and negatively to others is evidenced in their recent discussion of the Public Interest Research Group V. the FCC.[20]

> The questions in this case is whether a Maine television station, having broadcast paid advertisements for snowmobiles, must air the viewpoints of those who hold that snowmobiles are environmentally destructive, dangerous, noisy and offensive. . . . Complainants argue that the fairness doctrine serves the first amendment by requiring airwave licenses to be true public forums for the presentation of divergent views. The essence of this argument seems to

> be that the first amendment requires the fairness doctrine either to be enforced to the hilt or to be supplemented by regulations designed to ensure access to the broadcasting media by all points of view. . . . We have doubts as to the wisdom of mandating, rather than merely allowing government intervention in the programming and advertising decisions of private broadcasters. . . . We believe the first amendment permitted the Commission not only to experiment with a full-scale application of the fairness doctrine to advertising, but also to retreat from its experiment.[21]

In some instances the issues concerning the responsibility of the particular medium have been settled in favor of the complainants, in other cases the issues have been settled in favor of the medium owner(s), in the majority of cases, issues have been raised, buy are not yet resolved. On December 10, 1975, the FCC attempted to make its position as regards public interest groups clearer by issuing its Policy Statement on Broadcaster-Citizen Group Agreements.[22]

-The FCC reaffirmed that licensees have an obligation to discuss community problems with local residents, but not necessarily to undertake formal agreements with public interest groups.

-The broadcaster always must maintain the final decision in programming and operating.

-The broadcaster is allowed to make "specific" agreements with public interest groups.

-The FCC will recognize only written agreements as binding.

-A breach of a written agreement may be made in the public interest, but if not, the breach will be treated as an unfulfilled promise to the FCC.

-The Commission will not void objectionable agreements but will allow the parties to attempt a renegotiation.

-The written agreement must be placed in the public file.

-A citizen's group does not have to represent large numbers of people. Even one individual may raise questions that the licensee must consider.

Since the majority of citizen group challenges are settled by agreements between the group and the broadcaster, these guidelines will have a major impact on both the citizens' groups and the broadcasters. The section explaining that a breach of a written agreement may be treated as an unfulfilled promise to the FCC is sure to cheer public interest groups, but sections reaffirming the position that the broadcaster is always the ultimate decision maker would allow the broadcaster to make decisions notwithstanding the agreement.[23]

An examination of thirteen issues of Access revealed a concern by public interest groups with at least nineteen different issues. Table IV lists these areas of concern.

TABLE IV

PUBLIC INTEREST CONCERNS, 1976

Access, 1976	ISSUES
January 12	1. Minority Employment
January 26	2. Children's Viewing
February 9	3. Gay Rights
February 23	4. Violence in Programming
March 8	5. Rights of the Aging
March 22	6. Conglomerate Interests in Broadcasting
April 6	7. Women's Issues
April 19	8. Diversification of Ownership
May 3	9. False Advertising
May 17	10. Organized Crime in Cable TV
May 31	11. Consumer Issues
June 14	12. Programming for Minorities and Women
July 12	13. PTV and Corporate Influence
	14. Advertising of Junk Food to Children
	15. Stereotypes In Media
	16. Rights of Press
	17. Media Access
	18. Alternate Media
	19. EEO Guidelines

As part of the research for this paper, three field interviews were made with commercial television station managers to determine their views toward broadcast regulatory policy. (A complete list of the question areas will be found in Appendix B.) The three managers worked at middle-market stations and all three had been in the industry for over twenty years. The station managers seemed very knowledgable about contemporary broadcast policies, but, as might be expected, they were not particularly concerned about the interpretation of policy from past decades, and they did not seem to relate current policy to any kind of historical or social continuum. They were primarily concerned about how current FCC regulations affect their stations now and in the near future.

Another interesting observation from the station managers was the feeling that regulatory policy comes only from the FCC. Two of the three managers saw little or no broadcast regulatory policy influences from the White House, the Courts or Congress; the third manager saw only minor and indirect influences from these institutions. This was a surprising finding in light of the fact that Congress and the Courts have a very direct influence on broadcast regulations. One explanation for this opinion by the station managers might be that they are answerable to the FCC directly and any Judicial or Congressional influence would be filtered through the FCC. The managers acknowledged only two sources of direct influence on broadcast regulatory policy--the FCC and pressure groups.

Concerning pressure groups,[24] all three managers were very much concerned about the influence of these groups on the FCC. The managers acknowledged that the groups served both a positive and negative function--positive

when they points out areas of community interest and negative when they challenge station licenses. The broadcasters agreed that special interest groups could serve a need of the station operators by introducing new public issues and by keeping management aware of community interests, but the managers indicated a negativism toward pressure group tactics.

The station managers' general attitude toward broadcast regulations can be summarized in a statement made by all three broadcasters: "The good television manager doesn't need regulations because he goes into broadcasting to serve the community." The managers agreed on this point that a "good broadcaster" goes beyond FCC regulations in serving the community; the "good broadcaster" uses FCC regulations as the minimum guidelines, not the maximum. The broadcasters seemed to be convinced that the best service the FCC provides is in technical regulations and that the worst service the FCC offers is in its programming and station operation dictums. The managers seemed particularly offended by the FCC's regulations concerning the employment of minorities and women; the attitude of the managers was that the FCC, from afar, was not in a position to know station employment needs and should therefore allow the station a free rein in employment decisions. Again, the station owners believed that the "company" would hire minorities and women without being told to do so by the FCC. (This assumption isn't supported, however, by past employment records of the majority of broadcast stations.)

One question asked the managers to list the three most crucial regulatory issues facing broadcasters today. The managers listed:

1. The Fairness Doctrine ("The intent of the doctrine is good, but in practice, it makes broadcasters avoid controversial issues.")

2. Cable, Pay TV and Public Broadcasting ("These outlets will splinter the audience and there are enough independent outlets to have diverse viewpoints. These systems will ultimately be abandoned by the general public because they will cost the viewer too much money.")

3. Technological Advances ("Technology will introduce all kinds of new concepts into broadcasting; technology will definitely change the future of commercial broadcasting, but noone can tell exactly how things will develop.")

4. EEO ("This just puts an exceptional burden on the broadcaster. The paper work is tremendous. How can a small station handle this? The NAB is taking exception to it.")

5. Ascertainment ("We were concerned about community needs before ascertainment, but now we follow FCC guidelines.")

6. Restrictions on Advertising ("The limitation on the types of products that can be sold over the air is a negative restriction; it might violate First Amendment rights. All advertising might be banned from children's programming. Cigarette spots have been taken off and this limits the public's access to information.")

7. Cable Regulations ("Small town radio will be wiped off the map; the importation of distant radio signals will kill local community radio; the sale of local advertising will also be hurt.")

8. Station license renewals ("Annual reports should be adequate; station challenges should not be accepted if the station is adequately serving the community.")

All of the managers agreed that the volume of paper work required by FCC regulations had increased and that the stations had to consult with their Washington-based attorneys more now than they had felt a need to in past years. The managers said that the license forms had been shortened, but that the increase in paper work came when annual reports and EEO reports and other reports and documents had to be submitted. All three managers felt annoyed and burdened by the level of paper work.

The broadcasters felt that we are in a new era of broadcast regulations that started about five years ago. The new era is characterized by pressure group demands for various kinds of programming policies and employment requirements and these pressure group demands are now frequently echoed by the FCC.

One final observation about these broadcast managers: they were helpful and friendly and seemed very willing to talk with a researcher or any individual from the general public. They talked freely and often suggested additional sources of information.

While there is concern about public interest groups dictating programming policies to the station managers, evidence indicates to the contrary. While citizen groups are filing numerous petitions to deny station licenses, they are having very few successes. To date, there have been only two petitions to deny granted at the instigation of public interest groups—the Alabama educational stations and a Mississippi station lost their licenses for failure to program in the interest of the total community. Access carries a monthly score board of petitions to deny submitted by public interest groups and of those petitions granted; from this source, an intrested party can follow the scoring process. Also, not only are few petitions to deny granted, but according to one study completed at Stanford University,[25] the FCC does not always give public interest groups a complete and sympathetic hearing. The biggest annoyance to broadcasters comes in the legal expenses associated with license challenges and in the increased paper work necessary to satisfy FCC and public interest group demands.

The 1970s have introduced a variety of regulatory issues and that complete listing from a content analysis of Broadcasting will be found in

Table VI. Indeed, we do seem to be into a new era of broadcast regulatory policy. An era brought about partially by new technology including CATV, satellites and a wide variety of information distribution systems. These new devices may change the characteristics of commercial broadcasting as we know it; they may splinter the audience to the point where a viewer can tune into a channel to satisfy her/his special interests. The new audiences may be much smaller and more select and with many channels to satisfy a wide variety of public interests, many regulatory issues may become outdated. Also, with the new interest in employment practices and programming policies, we might see some changes in the basic structure of the broadcasting industry. The developments in the last half of the 1970s will, no doubt, affect the future of broadcasting for decades to come.

TABLE VI

BROADCAST REGULATORY ISSUES, 1976*

Broadcasting magazine, 1976	ISSUES
March 1 March 8 March 15 March 22 August 23 November 8	1. Licensing 31 2. Programming 10 3. CATV 9 4. Political Telecasts 6 5. Advertising 5 6. Press Rights & Responsibilities 5 7. White House 4 8. Public Interest Groups 3 9. Congress 3 10. EEO 2 11. PBS 2 12. Fairness Doctrine 2 13. Antitrust 2 14. Copyright 1 15. Courts 1 16. Consumer Protection 1 17. Libel 1 18. FCC Functions 1
These 6 issues of Broadcasting contained 89 total articles on regulatory issues. There was an average of 15 articles per issue.**	

*For sample headlines dealing with these regulatory issues, see the appendix.

**This number is rounded up from 14.83.

NOTES

[1]Broadcasting, January 28, 1946, "How Far Can the FCC Go in Regulating Broadcasting?"

[2]This regulatory policy was modified by subsequent decisions.

[3]Broadcasting, March 18, 1946, "F(ederal) C(ensorship) C(ommission)."

[4]Broadcasting, December 9, 1946, "Doherty Urges Positive Policy To Stop Destructive Industrial Strife."

[5]Broadcasting, February 21, 1955, "Matusow Admits Radio-TV Blacklist In Error, Claims Agencies Involved."

[6]Broadcasting, March 26, 1956, "WDSU-TV Fires Employe For Refusal to Testify."

[7]Broadcasting, April 4, 1955, "Salant, Plotkin Debate TV Views."

[8]Broadcasting, November 2, 1970, p. 124.

[9]Ibid.

[10]On January 2, 1961, President Kennedy appointed James Landis, former dean of Harvard Law School, as a White House staff member to study regulatory agencies. On January 23, 1961, Mr. Landis said that the FCC should consider programming at license renewal time.

[11]This three-way network agreement was reached in September of 1961 and ABC was the first network to pull out of the joint children's program plan on October 9, 1961. ABC decided to produce its own children's programs.

[12]On April 12, 1965, the Supreme Court affired the FTC's decision against Colgate-Palmolive and Bates Agency and said that "mock-ups" were acceptable, if they were not implied to be the real thing.

[13]The final award was actually reduced to $550,000.

[14]This case also had far-ranging effects on the application of the Fairness Doctrine to Commercial messages.

[15]Fred S. Siebert, Theodore Peterson and Wilbur Schramm, Four Theories of the Press (Urbana: University of Illinois Press, cloth, 1956, paper, 1963), p. 74.

[16]Frederick C. Whitney, Mass Media and Mass Communications in Society (Dubuque, Iowa: Wm. C. Brown Company, 1975), p. 51.

[17]Whitney, Chapter 4, pp. 49-68.

[18]All issues come from Broadcasting, November 2, 1970, "Broadcasting at 50: Can it Adapt?"

[19]An example of the type of settlement reached and of the issues involved in most feminist challenges to broadcast licenses can be shown in the agreement reached between the American Association of University Women and broadcasters in Erie, Pennsylvania. The major points in the agreements include:

-The stations agreed to increase the amount of local news devoted to women.
-Significant women and women's groups would be consulted in future ascertainment hearings.
-A Women's Advisory Council will recommend programming.
-"The changing role of women in our society will be listed as a major issue in our community."

This agreement was reported in Media Reports to Women, 4:2, February 1, 1976, p. 4.

[20]Public Interest Research Group, Environmental Law Institute, et al., V. Federal Communications Commission. U.S. Court of Appeals for the First Circuit, No. 74-1434, August 18, 1975.

[21]Ibid.

[22]Docket 20495, FCC 75-2359, December 10, 1975. See a summary of the policy statement in Access issue 26, January 26, 1976, pp. 18-19.

[23]The diversity of the citizen groups interested in broadcasting performance and programming is evident in this partial listing of some of the groups who currently have petitions to deny broadcast licenses before the FCC:

Magic City Concerned Communicators
Wilcox County Concerned Progressive League
Pickens County NAACP

Dallas County Progressive Movement for Human Rights
Black Media Coalition of Tucson
Committee for Open Media (San Jose)
Community Service Org. and United Farm Workers Org.
Community Coalition for Media Change
National Organization for Women
National Association for Better Broadcasting
Los Angeles Women's Coalition
Committee on Mass Media and Spanish Surnamed
Black United Front
Detroit Media Coalition
Inter-Faith Center for Radio Justice
Action Against Apathy
Puerto Rican Media Action

[24]In the interviews, the interviewer referred to these groups as "public interest groups," but the broadcast managers always called the groups "pressure groups" or "special interest groups."

[25]Gandy, Oscar, et al., "Citizen Action and the FCC," paper presented at the Annual Convention of the International Communication Association, Portland, Oregon, April, 1976.

APPENDIX A

Sample of headlines dealing with regulatory issues from Broadcasting magazine for 1946, 1955, 1956 and 1976.

1946

1. Licensing 51

   a. "Early Action Seen On First TV Cases"
   b. "FCC Lists Grants In FM Since War"
   c. "FCC Almost Keeps Up With Applications"

2. Protests Against Regulations 13

   a. "Freedom of Air at Stake, Solons Declare"
   b. "Don Lee System Challenges FCC Right to Regulate Nets"
   c. "Censorship Is FCC vs NAB Issue"

3. Technical 12

   a. "Cowles Asks Color Video Frequency"
   b "Hearings Held on Washington FM"
   c. "Discussions Prove Necessary on Worldwide Reallocations"
   d. "Hearings Resume on Clear Channel"

4. FCC Functions 9

   a. "Bill Affecting FCC Procedure Passed"
   b. "Hyde May Be Elevated to Commission"
   c. "House Proposes $5,560,000 for FCC"

5. Stations and Unions 9

   a. "Atlass Charges IBEW with Violation of Lea Act"
   b. "Labor Troubles Demand More Attention"
   c. "Racketeering Must Be Stamped Out"

6. Courts and Broadcasting 6

   a. "High Court May Decide FCC Power"
   b. "Supreme Court to Get Petrillo Case"

1955

L. Licensing 55

a. "FCC Approves Two New AMs"
b. "FCC Grants 7 AMs One Frequency Change"

2. Technical 25

a. "DBA Asks FCC Change In Power Grant"
b. "Initial Comments Favor Low Power TV Proposal"

3. Programming 10

a. "Ban on Racing Information Proposed Again in Senate"
b. "Kefauver Sets Hearings on TV & Delinquency"

4. FCC Functions 9

a. "FCC Defends Budget In House Hearings"
b. "Senate Hears FCC Request for $85,000"

5. Advertising 7

a. "New York Grand Jury Probe of 'Bait-Switch'Ads Underway"
b. "Fraudulent TV Advertising Charged to L. A. Car Dealer"
c. "Eight Year Jail Sentence Given 'Blue Rose' Promoter"

6. Communists 7

a. "Butler Bill Would Deny Equal Time to Pro-Reds"
b. "Edward Lamb Denies Red Affiliations, Says Never Wrote 'Worker' Story"
c. "Matusow Admits Radio-TV Blacklist In Error, Claims Agencies Involved"

1956

1. Licensing 60

   a. "Three TV Stations Authorized by FCC"
   b. "Rounsville, Macri Propose Swap of Stations"

2. Technical 18

   a. "Senate Begins Secret Plans to Reallocate Nation's TV"
   b. "An Answer on Allocation May Take Form At FCC Today"

3. Antitrust/Fair Competition 10

   a. "IBM, AT&T Agree to Release Patents; RCA Licensing Setup May Be Next"
   b. "House Antitrust Group Plans Probe of 'Regulated Monopoly'"
   c. "Bicker Lowers the Boom on CBS, NBC 'Domination'"

4. Political Telecasts 9

   a. "FCC Opposes Stanton Plan on Equal Time Provision"
   b. "Benson Asks Equal Time to Answer Murrow Telecast"
   c. "Lar Daly Says Appeal Will Be Taken to FCC"
   d. "Lar Daly Pickets FCC In Campaign for Equal Time"

5. Programming 7

   a. "Boxer Wins New Trial In TV Fight Film Case"
   b. "Investigations of Radio-TV Begin Bustin' Out All Over"

6. Communists 6

   a. "WDSU Fires Employe For Refusal to Testify"
   b. "Fund for Republic Charges Blacklisting is Widespread"
   c. "Faulk Sues AWARE for Blacklisting"

7. FCC Functions 4

   a. "Court to Review Legality of FCC Monitoring Evidence"
   b. "FCC Money Bill Passes Hill"

1965

1. Licensing

   a. "Ownership Limit Raise Sought by Financiers"
   b. "FCC Issues Its Ban on Bigness"

2. CATV

   a. "NAEB Behind FCC Plan to Control CATV"
   b. "CATV vs the Copyright Bill"
   c. "Court Challenges on CATV Rules"
   d. "What's CATV's Role in Small Communities"
   e. "CATV Coverage Called Unfair"

3. Broadcasting and Courts

   a. "NAB and RTNDA Back Trial Coverage"
   b. "Two Judges Oppose Pre-Trial News Curb"
   c. "1965 Score: Court 9 - FCC 4"

4. Advertising

   a. "Ads Are Not Exempt in Cigarette Bill"
   b. "Ban Called for on Cigarette Ads"
   c. "Ad Tax Proposed Again"

5. Network Functions

   a. "Its War on FCC Program Control"
   b. "FCC's Program Proposal: Prelude to 'Chaos'"

6. Technical/Satellites

   a. "ABC Shoots for Sky; Wants Own Satellite"
   b. "FCC Brushes Big Comsat Barriers"

1976

1. Licensing

   a. "NAACP Chapter Challenges Renewal of WUAN-TV"
   b. "Hooks Challenges Manner in Which FCC Granted WRC-TV Renewal".
   c. "Polish American Files Against Chicago O&O"

2. Programming

   a. "Family Viewing After a Year: What Effect on TV Programs?"
   b. "House Unit Hears It All Said Again on Family Viewing"
   c. "ACLU Protests FCC Ban on Cable Obscenity"

3. CATV

   a. "Broadcasters Call De-regulation of Cable Unfair to Them"
   b. "FCC Starts Ball Rolling on Exclusivity and Refranchising"

4. Political Telecasts

   a. "FCC Rolls Back Restriction on the Sale of Political Time by WGN"
   b. "How FCC Divided on Five-Minute Political Ruling"
   c. "Labor Party Wins 11th Hour Appeal at FCC"

5. Advertising

   a. "Civil Aeronautics Board Tells TWA to Stop Claims of Superiority"

6. Press Rights and Responsibilities

   a. "House Hands Big Club to Schorr Patrol"
   b. "White Hat or Black for CBS's Dann Shorr?"
   c. "Judges Are Said to Lean Too Far Toward Fair Trial, from Free Press"

APPENDIX B

Questions Asked to Broadcast Station Managers

1. Length of time in industry?

2. How would you characterize broadcast regulations in the 1950s, 1960s, 1970s?

3. What are the three most crucial regulatory issues facing broadcasters today?

4. Do public interest groups help or hinder broadcasters in terms of programming?

5. Does the Fairness Doctrine help or hinder broadcasters?

6. Are we on the verge of a great new era in broadcasting with multiple cable systems and independents and public broadcasting? How will it affect commercial broadcasters?

7. What is the level of paper work in broadcasting today compared to past years? If more, why?

8. How are broadcast regulations affected by personalities of FCC Commissioners?

9. How much power do public interest groups have?

10. Have legal services increased over the years?

11. How would you describe the influence on broadcasters of the White House? Courts? Congress?

12. What is the future of commercial broadcasting?

13. Is viewership decreasing, and if so, why?

14. How can broadcasters best serve community needs in the future?